

U.S. Department of Labor

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



JUN 24 2002

HAND DELIVERED

Hon. John M. Vittone  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
Suite 400  
800 K Street, NW  
Washington, D.C. 20001

Re: California Request for Hearing in Response to Initiation of Derecognition Proceedings

Dear Judge Vittone:

On May 10, 2002, the U.S. Department of Labor's Office of Apprenticeship Training, Employer and Labor Services (OATELS) initiated derecognition proceedings, under 29 CFR §29.13(b), against the California Department of Industrial Relations (CDIR). The CDIR, the State apprenticeship agency or council (SAC), currently has authority to register apprenticeship programs, for Federal purposes, in California. Derecognition would remove that authority. A copy of the notification to the CDIR is enclosed.

By letter dated June 7, 2002, and received June 13, 2002 (copy enclosed), the CDIR requested a hearing as provided in 29 CFR §29.13(c)(3). Therefore, the Secretary has asked me to request that the Office of Administrative Law Judges (OALJ) designate an Administrative Law Judge (ALJ) as soon as possible to conduct the requested hearing.

The general question presented is whether the CDIR has failed to fulfill or operate in conformity with the requirements of 29 CFR Part 29. In particular, the issues are: 1) whether California Labor Code (CLC) §3075(b) limits, rather than promotes, apprenticeship opportunities, contrary to 29 CFR §29.1; and 2) whether the CDIR has failed to comply with 29 CFR §29.12(a), as interpreted by Bureau of Apprenticeship and Training Circular 88-5 (copy enclosed), by virtue of the enactment of CLC §3075(b) without prior approval from OATELS.



A Proud Member of America's Workforce Network

I request that the presiding Administrative Law Judge set a prehearing conference as soon as possible to discuss such issues as discovery, scheduling and location of the hearing.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Emily Stover DeRocco".

Emily Stover DeRocco  
Assistant Secretary for  
Employment and Training

Enclosures: (3)

cc: Anthony Swoope  
Stephen J. Smith

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STATE OF CALIFORNIA  
Governor

GRAY DAVIS,

DEPARTMENT OF INDUSTRIAL RELATIONS  
Office of the Director  
455 Golden Gate Avenue, 10<sup>th</sup> Floor  
San Francisco, CA 94102  
Tel: (415) 703-5050 Fax: (415) 703-5059/8

MAILING ADDRESS:  
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San Francisco, CA 94142-0603



June 7, 2002

VIA FAX and CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Anthony Swoop  
Administrator  
Office of Apprenticeship Training, Employer and Labor Services  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Logged on: 6/13/02  
Due Date: 6/23/02  
Control # 321187

Re: Derecognition Proceedings

Dear Mr. Swoop:

This is in response to your letter of May 10, 2002 received by this office on May 14, 2002. Pursuant to 29 CFR 29.13(c)(3), the California Department of Industrial Relations and the California Apprenticeship Council (DIR/CAC) request a hearing to contest derecognition of DIR/CAC. We request that this hearing be held in San Francisco for the convenience and access of DIR/CAC, the California apprenticeship program sponsors and the California apprenticeship community.

California's grounds for appeal are that DIR/CAC has operated in full compliance with 29 CFR 29 while maintaining the high standards of apprenticeship necessary to safeguard the welfare of apprentices in California. California's Legislature has determined that apprenticeship programs can only be approved when training needs justify the establishment of a program. Your office apparently feels that it is appropriate to approve programs where there is no training need, or where there is some justification for the program other than training. We believe that derecognition of DIR/CAC would violate the federal-state cooperation intended by the Fitzgerald Act and would diminish the high standards California has set for the purpose of safeguarding the welfare of apprentices in California.

Please provide us with all documents related to or evaluated in regard to OATELS determination that reasonable cause exists to derecognize DIR/CAC. Your May 10 letter references a reliance on factual representations of PHCC and WECA, that employer groups have been discouraged from applying for registration, that caused you to conclude that the statute has led to "inexcusable delay" in approving programs. Earlier letters from you and the Assistant Secretary reference extensive and varied concerns from outside parties, both inside and outside the apprenticeship community, on a variety of issues besides the statutory section cited in your letter initiating proceedings, Calif. L.C. 3075. We need to know whether those issues remain a basis for the proposed derecognition, or whether OATELS has been satisfied with California's responses as to those other issues.

TO: Mr. Anthony Swoop, Administrator

June 7, 2002

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Our request for documents includes both those communications on which OATELS will rely in this administrative proceeding, those cited in your letters, as well as those encouraging derecognition or sanctions for general policy reasons. We make this request pursuant to 29 CFR 29.9, 29 CFR 18.1 et seq. and the Freedom of Information Act, 5 U.S.C. 552 et. seq. We request a reasonable time to evaluate any documents prior to a hearing date being set to determine whether additional discovery is necessary for a complete response to the issues which OATELS will present at the hearing.

Please send a copy of this letter to whomever will assign the Administrative Law Judge for the Secretary, and ask him or her to copy future correspondence to my counsel, as well as counsel for apprenticeship program sponsors who have indicated an interest in participation, at the addresses on the attached list.

We are confident that a full record will lead to the conclusion that California should continue to serve as the approval agency for federal as well as state purposes, and that California should continue its cooperative relationship with the Secretary of Labor for the advancement of the welfare of California's apprentices.

Very truly yours,



Stephen J. Smith

Director

California Department of Industrial Relations

cc: California apprenticeship program sponsors  
Gray Davis, Governor  
John Burton, President Pro Tem of the State Senate  
Richard Polanco, Majority Leader of the State Senate  
James L. Brulte, Senate Republican Leader  
Herb Wesson, Jr., Speaker of the Assembly  
Fred Keeley, Speaker Pro Tem of the State Assembly  
Kevin Shelley, Majority Leader of the State Assembly  
Dave Cox, Assembly Republican Leader

*TO: Mr. Anthony Swoop, Administrator*

*June 7, 2002*

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COUNSEL

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